

## **Remarks**

Claims 1-43 are pending in this application. Claims 39-43 are withdrawn from consideration.

Claims 1-6 and 8-37 are cancelled. Applicants reserve the right to pursue these claims in a continuing application.

Claims 1-8 and 38 are rejected.

New claims 44 – 54 are presented for examination.

### **Claim Rejections – 35 U.S.C. § 102**

Claims 1-8 and 38 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Gutschow et al.* (J. Med. Chem. 1999); *Showalter et al.* (J. Med. Chem. 1999); *Bourdais et al.* (RN 33333-70-9, CAPLUS); *Jagodzinski et al.* (RN 104053-75-0, CAPLUS); *Ram* (RN 72639-62-4, CAPLUS); *Grinev et al.* (RN 113407-95-7, CAPLUS); *Kapustina et al.* (RN 136918-52-0, CAPLUS); *Bridges et al.* (RN 6433-72-3, CAPLUS); *Shah et al.* (RN 7311-95-7, CAPLUS); *Hallas et al.* (RN 92539-88-3, CAPLUS); *Chursinova et al.* (RN 63673-60-9, CAPLUS); *Callahan et al.* (RN 633307-96-7, CAPLUS) or *Luk'yanchuk et al.* (RN 71483-97-1, CAPLUS).

Applicants respectfully traverse the present rejection for the following reasons.

With respect to *Gutschow et al.*, moiety R<sup>2</sup> in new claim 44 (which corresponds original claim 1) is restricted to carboxylic acid amides (–CO–NH–R<sup>4</sup>), which are distinct from the carboxylic acid (–COOH) of this reference.

With respect to *Showalter et al.*, moiety X<sup>1</sup> in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the indoles of this reference.

With respect to *Bourdais et al.*, moiety  $X^1$  in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the indoles of this reference.

With respect to *Jagodzinski et al.*, moiety  $X^1$  in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the indoles of this reference.

With respect to *Ram*, moiety  $R^2$  in claim 44 is restricted to carboxylic acid amides ( $-\text{CO}-\text{NH}-\text{R}^4$ ), which are distinct from the carboxylic acid ( $-\text{COOH}$ ) of this reference.

With respect to *Grinev et al.*, moiety  $R^2$  in the instant invention is restricted to carboxylic acid amides ( $-\text{CO}-\text{NH}-\text{R}^4$ ), which are distinct from the carboxylic acid ( $-\text{COOH}$ ) of this citation.

With respect to *Kapustina et al.*, moiety  $R^2$  in the instant invention is restricted to carboxylic acid amides ( $-\text{CO}-\text{NH}-\text{R}^4$ ), which are distinct from the carboxylic acid ( $-\text{COOH}$ ) of this citation.

With respect to *Bridges et al.*, moiety  $X^1$  in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the indoles of this reference.

With respect to *Shah et al.*: moiety  $R^2$  in claim 44 is restricted to carboxylic acid amides ( $-\text{CO}-\text{NH}-\text{R}^4$ ), which are distinct from the carboxylic acid ( $-\text{COOH}$ ) of this citation.

With respect to *Hallas et al.*, moiety  $R^2$  in claim 44 is restricted to carboxylic acid amides ( $-\text{CO}-\text{NH}-\text{R}^4$ ), which are distinct from the carboxylic acid ( $-\text{COOH}$ ) of this citation.

With respect to *Chursinova et al.*, moiety  $X^1$  in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the indoles of this citation.

With respect to *Callahan et al.*, the compound cited by the examiner was already, and remains excluded from the scope of the instant invention by way of disclaimer found at the end of claim 44 and original claim 1.

With respect to *Luk'yanchuk et al.*, moiety X<sup>1</sup> in claim 44 is restricted to sulphur (to form benzothiophenes), which are distinct from the benzofuryls of this reference.

It should be pointed out that the specific compounds of claim 7 comport with the formulae of claim 44 which is shown above to be allowable with respect to the present rejections. Therefore, claim 7 is also allowable.

Accordingly, for at least these reasons claims 7, 38, and 44-54 are allowable under 35 U.S.C. § 102(b) over *Gutschow et al.*; *Bourdais et al.*; *Jagodzinski et al.*; *Ram*; *Grinev et al.*; *Kapustina et al.*; *Bridges et al.*; *Shah et al.*; *Hallas et al.*; *Chursinova et al.*; *Callahan et al.* or *Luk'yanchuk et al.*

#### **Claim Rejections – 35 U.S.C. § 112, first paragraph**

Claim 8 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claim 8 is cancelled thereby rendering the present rejection moot.

#### **Claim Rejections – 35 U.S.C. § 112, second paragraph**

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

None of pending claims 7, 38, and 44-54 use the language “having the general formula”. Accordingly, claims 7, 38, 44 and 45 are now allowable under 35 U.S.C. § 112, second paragraph.

### **Dependent Claim Objections**

Dependent claims 2-58 are also objected to as being independent upon a rejected based claim.

Claims 2-6 and 8-37 are cancelled. Claims 39-43 are withdrawn from consideration. Accordingly, the present objections is moot with respect to these claims.

Claim 7 is now an independent claim. Dependent claims 38 and 45-54 depend from a claim that is shown above to be allowable. Accordingly, the present objection with respect to these claims has been overcome.

### **Conclusion**

Applicants have made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicants believe that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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